

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

BENNIE J. POTEET, II, Individually)	
and by and through his Next Friend,)	
EVELYN POTEET,)	
)	Case No. 1:05-CV-309
<i>Plaintiffs,</i>)	
v.)	Chief Judge Curtis L. Collier
)	
POLK COUNTY, TENNESSEE, <i>et al.</i> ,)	
)	
<i>Defendants.</i>)	

ORDER

Before the Court is Defendant Adam E. Fall, M.D.'s ("Defendant") motion to amend scheduling order (Court File No. 161). Plaintiffs filed a response (Court File No. 215) and Defendant filed a reply (Court File No. 218). Defendant requests that the scheduling order entered on March 10, 2006 (Court File No. 26) be amended to: (1) reflect that subject matter jurisdiction of this Court relative to the claims against the Defendant National Health Care of Cleveland, Inc., EVA Cleveland Community Hospital and Dr. Adam Fall is in dispute; and (2) reflect that the trial is now expected to last 15 to 20 days.

As grounds for the first proposed amendment, Defendant directs the Court to Defendants Dr. Fall and Cleveland Community Hospital's pending motion to dismiss for lack of subject matter jurisdiction (Court File Nos. 128 & 129). The Court finds that nothing in the scheduling order precludes a party from disputing subject matter jurisdiction. Therefore, the Court **DENIES** Defendant's first requested amendment.

As grounds for the second proposed amendment, Defendant states the estimated trial length in the original scheduling order, five (5) days, was based upon information available at that time.

Since then additional parties have been added and there are numerous witnesses, including several experts, which are expected to testify. Defendant now estimates the trial will last 15 to 20 days. The scheduling order contains an estimated trial length and any variations of that estimate can be addressed at the pretrial conference. Therefore, the Court **DENIES** Defendant's second requested amendment.

For the foregoing reasons, the Court **DENIES** Defendant's motion (Court File No. 161) in its entirety.

SO ORDERED.

ENTER:

/s/
CURTIS L. COLLIER
CHIEF UNITED STATES DISTRICT JUDGE